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# **TOXIC CHEMICAL RELEASE INVENTORY**

## **ALTERNATE THRESHOLD FOR LOW ANNUAL REPORTABLE AMOUNTS; TOXIC CHEMICAL RELEASE REPORTING**

### **INFORMATION COLLECTION REQUEST SUPPORTING STATEMENT**

**OMB CONTROL NO. 2070-0143  
EPA ICR #1704.05**

**June, 2000**

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## ATTACHMENTS

- A RELEVANT STATUTES: EPCRA SECTION 313 AND PPA SECTION 6607
- B MAJOR REGULATIONS SPECIFIC TO FORM A: 40 CFR §372.10, §372.27 AND §372.95
- C FORM A
- D RECENT CHANGES IN TRI BURDEN
- E TRI REPORTING PACKAGE FOR 1999 REPORTING CYCLE (EPA 745-B-00-001). INCLUDES INSTRUCTIONS FOR FORM A.

# **1 IDENTIFICATION OF THE INFORMATION COLLECTION**

## **1(a) Title and Number of the Information Collection**

**Title:**            **Alternate Threshold for Low Annual Reportable Amounts; Toxic Chemical Release Reporting**

**EPA ICR No.**            **1704.05**

**OMB Control No.**    **2070-0143**

## **1(b) Short Characterization/Abstract**

This Information Collection Request (ICR) covers the public reporting and record keeping requirements associated with Toxics Release Inventory (TRI) reporting based on an alternate threshold for facilities with low amounts of listed toxic chemicals in waste. EPA collects information from facilities and enters it into TRI under the authority of section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. 11001 *et seq.*) and section 6607 of the Pollution Prevention Act (PPA) (42 U.S.C. 11071 to 11079). EPCRA section 313 requires owners or operators of certain facilities (i.e., facilities in listed Standard Industrial Classification (SIC) codes) manufacturing, processing, or otherwise using any of over 600 listed toxic chemicals and chemical categories (hereafter listed toxic chemicals ) in excess of the applicable threshold quantities to report on their environmental releases and transfers of and waste management activities for such chemicals annually. Under section 6607 of the PPA, facilities must provide information on the quantities of the toxic chemicals in waste streams and the efforts made to reduce or eliminate those quantities. A covered facility must file a separate form for each toxic chemical manufactured, processed or otherwise used in excess of the reporting thresholds established in section 313(f)(1).

This ICR is for the Form A. EPA established an alternate threshold for a category of facilities with low amounts of a listed toxic chemical in wastes. A facility that meets the section 313 reporting thresholds, but estimates that the total annual reportable amount of the listed toxic chemical does not exceed 500 pounds per year, can take advantage of the alternate manufacture, process or otherwise use thresholds of 1 million pounds per year for that listed toxic chemical, provided that certain conditions are adhered to. Each qualifying facility that chooses to apply this alternate manufacture, process or otherwise use threshold must file a Form A certifying that they met the condition of the alternate threshold for one or more chemicals, in lieu of completing a Form R for each listed chemical for which the facility exceeded statutory thresholds. The Form A is submitted to both the EPCRA reporting center and the designated state recipient in the same manner that the Form R is submitted. The Form A provides a signed statement that the sum of the amount of the listed toxic chemical or chemicals in wastes did not exceed 500 pounds for this reporting year, and that the chemical(s) was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.

Responding to this information collection requires determining whether a chemical is eligible for certification under the alternate threshold, and completing the Form A. A single Form A may contain as many listed toxic chemicals as met the conditions of the alternate threshold. The burden of determining eligibility for certification and record keeping is estimated to average 34.6 hours for each chemical that is certified. The burden of completing the Form A is estimated to average 1.4 hours, regardless of the number of chemicals being certified. The total burden per response is the combination of these two, and will vary depending on the number of chemicals being certified. The annual public burden for this collection of information is estimated to average 34.6 hours when certifying one chemical and 67.8 hours when two chemicals are certified.

The fact that a facility can now submit multiple certifications on a single Form A results in the non-intuitive result that the estimated burden per Form A increases, while the actual burden for a facility remains the same (for a facility certifying a single chemical) or decreases (for a facility certifying multiple chemicals). For instance, for a facility certifying two chemicals, the burden for a single Form A is now estimated to average 67.8 hours. The average burden for a Form A when a facility had to file two Form As was estimated at 34.6 hours, with a total burden of 69.2 hours. Thus, the ability to report multiple chemicals on a single Form A is estimated to save this facility 1.4 hours. This is on top of the significant burden savings resulting from applying the alternate threshold instead of submitting a Form R.

Allowing multiple certification per Form A will cut the number of responses by approximately half. While the burden per response increases as the number of certifications per Form A increases, it goes up by less than double. The burden per response has increased while the burden per facility (as well as total burden) has decreased.

EPA estimates that as many as 7,397 respondents may submit a Form A with these responses containing a total of 14,793 certifications. Total respondent burden and cost for completing those Form As are estimated at approximately 582,000 burden hours and \$45.3 million per year. (The alternate threshold may save reporting facilities up to 189,000 hours, with a dollar value of \$11 million, compared to the cost of reporting on Form R.) The estimated burden in this supporting statement differs from what is currently in OMB's inventory for alternate threshold reporting (13,157 respondents, 9,072 responses, and 646,875 burden hours) as a result of both an adjustment and a program change.

The adjustment was made by calculating the number of eligible respondents and responses from the manufacturing sector based on TRI data from the 1998 reporting year (the most recent TRI data available). This adjustment reduced reporting burden by 62,772 hours.

The program change was made by excluding the reporting of PBT chemicals on Form A. This change reduces the burden associated with this collection. The portion of the change due to this regulatory change decreases burden by 2,114 hrs.

## **2 NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

Section 313 of EPCRA, 42 U.S.C. 11023, requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in excess of the applicable threshold quantities to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also began reporting source reduction and recycling data for listed chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. Copies of 42 U.S.C. 11023 and 13106 are included in Attachment A.

Each covered facility must file a separate report for each listed chemical manufactured, processed or otherwise used in excess of the reporting thresholds established in section 313(f)(1). EPA has authority to revise these threshold amounts pursuant to section 313(f)(2); however, such revised threshold amounts must obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to section 313. A revised threshold may be based on classes of chemicals or categories of facilities.

This ICR is for the Form A. EPA established an alternate threshold under EPCRA section 313(f)(2) for a category of facilities with low amounts of a listed toxic chemical in wastes. A facility that meets the appropriate reporting thresholds, but estimates that the total amount of the chemical in waste does not exceed 500 pounds per year, can take advantage of alternate manufacture, process, or otherwise use thresholds of 1 million pounds per year for that chemical, provided that certain conditions are met. A facility that chooses to apply the alternate threshold must submit an EPA Toxic Chemical Release Inventory Form A (EPA Form #9350-2) in lieu of an EPA Toxic Chemical Release Inventory Form R (EPA Form #9350-1). EPA's regulations implementing TRI reporting are codified at 40 CFR part 372. A copy of the sections specific to the Form A are included in Attachment B.

The information being collected on the Form A is necessary to fulfill EPA's responsibilities under EPCRA section 313(f)(2). A Form A addresses the statutory mandates and the public's right-to-know while allowing regulatory relief for facilities having lower volumes of chemicals in wastes. Form A provides appropriate information relating to the location of facilities manufacturing, processing or otherwise using these chemicals, that the chemicals are being manufactured, processed or otherwise used at current reporting thresholds, and that the sum of amounts of the chemical in waste did not exceed 500 pounds for that reporting year. The requirement to submit a Form A, in lieu of a Form R, fosters continued attention to chemical management practices and provides a locational tool vital to any compliance program or other interested party. It is necessary to receive some type of specific indication that a facility is taking advantage of the alternate threshold annually to assist in any compliance monitoring and enforcement efforts.

## **2(b) Practical Utility/Users of the Data**

The Paperwork Reduction Act, 44 U.S.C. 3502(11), states that the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion. EPA has demonstrated that it can process and utilize TRI information in a timely and useful fashion, as well as make the information available in a timely fashion for a variety of further useful purposes. This information is collected annually and is subsequently disseminated within a year of its receipt. Further information on Agency activities is summarized in Section 4(a).

According to EPCRA section 313(h), the data submitted in the forms are intended to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes. The purpose of the Agency's collection of this information is therefore to facilitate the availability of this information to the public.

TRI data made available as a result of this information collection is used by many different individuals and organizations, including concerned citizens, environmental and public interest groups, journalists, government agencies, the financial and business community, the regulated community, and educational and research institutions. Government agencies, researchers and environmental and public interest groups use data collected under EPCRA section 313 to produce national, regional, state and local level reports. Governments use the data to set priorities, target voluntary initiatives, and evaluate the development of regulations. Citizens and local interest groups use TRI data to assess the status of toxic chemicals in their community and to determine priorities for concern. Investment analysts use TRI data to provide recommendations to clients seeking to make investments on an environmental basis. Insurance companies and lenders look to TRI data as an indication of potential environmental liabilities. Many reporting companies use TRI data in preparing annual environmental reports, similar to annual reports on financial performance. The ICR for Form R (OMB #2070-0093, EPA #1363.09) provides specific examples of some of the actual uses of TRI data.

The Form A provides information that a section 313 listed chemical is being manufactured, processed or otherwise used at threshold levels specified in 40 CFR part 372.25. Through the use of the Form A, the individuals and groups described above will continue to have knowledge that the sum of the amounts in waste for a particular facility did not exceed a specified amount for the chemical for which the alternate threshold was applied.

## **3 NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Non-Duplication**

The information requested by the Form A represents a subset of information requested by Form R. To the extent that this reporting option is used, corresponding data will not be reported under Form R. Information comparing TRI reporting to information available under other statutes is available in the ICR for Form R (OMB #2070-0093, EPA #1363).

### **3(b) Increasing Public Awareness**

EPA has emphasized the Form A during training sessions, directly contacted potentially eligible facilities, and made some modifications to the reporting package which should make the Form A easier to identify and use. These actions, in addition to the additional time for which the Form A option has been available, have increased the level of use of the Form A.

### **3(c) Effects of Less Frequent Collection**

Section 313 requires annual reporting. Section 313(I) permits EPA to modify the reporting frequency by rulemaking, after submitting a notification to Congress. As Form As are required to be submitted on or before July 1 following the year in which the facility's activities occur, and as the national data are available from EPA within a year after EPA receives data, a less frequent collection of information would delay the availability of the data to the public. Since TRI represents the best available database tracking multimedia releases, transfers and other handling of listed toxic chemicals, changes in reporting frequency would have profound impacts on the quality and value of the data for purposes of planning, establishing baselines and tracking performance.

EPA's Office of Enforcement and Compliance Assurance (OECA) has stressed the need to continue to collect information on an annual basis that a facility is manufacturing, processing, or otherwise using a listed section 313 chemical in threshold amounts set out in 40 CFR part 372.25. Submission of the Form A allows EPA and other data users to identify facilities applying the alternate threshold. In order to target facilities effectively and efficiently for compliance inspections, EPA must be able to distinguish between facilities that did not report under EPCRA section 313 because they took advantage of this regulatory amendment, and facilities that did not report for other reasons.

In addition, the State and many of the Regional TRI program offices have submitted comments that echo enforcement concerns raised by OECA to the effect that the submission of a Form A is paramount to the ability of EPA and states to readily verify compliance with the regulation or to enforce against violations. Additionally, a report may provide sufficient information to citizens and interest groups and prevent unnecessary legal actions that might otherwise be pursued if there was a complete absence of information for a given facility.

By requiring the Form A on an annual basis, any compliance assistance or enforcement program, as well as other interested parties, are able to determine that the facility is continuing to manufacture, process, or otherwise use a listed section 313 chemical and that the amounts

associated with these activities are in excess of current reporting thresholds.

### **3(d) General Guidelines**

This information collection is consistent with the requirements of 5 CFR 1320.6, except that respondents may be required to submit information that is confidential. Specifically, reporting facilities are required to identify the chemical for which reports are submitted. Respondents can, however, claim the chemical identity as a trade secret, although they must provide a generic name as part of the information that is made available to the public. EPA securely stores and maintains the true identity of the chemical. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

EPA actively encourages the use of automated techniques, most notably PC-based report generating programs produced both by the Agency and by the private sector and other submissions on magnetic media. EPA recognizes that not all reporting facilities are able to or are interested in investing the time and funds necessary to employ such automated techniques. The final decision on how to report is ultimately the reporting facility's.

### **3(e) Confidentiality**

Respondents may designate the specific chemical identity of a substance as a trade secret. Procedures for submission and review of trade secret claims under section 313 are set forth in 40 CFR part 350 and are covered by another EPA ICR (EPA ICR #1428; OMB #2050-0078).

### **3(f) Sensitive Questions**

This collection does not request any sensitive information.

## **4 THE RESPONDENTS AND THE INFORMATION REQUESTED**

### **4(a) Respondents/SIC Codes**

A facility must report to TRI if it meets all three of the following criteria:

- (1) Has a primary Standard Industrial Classification (SIC) code covered by the regulations;
- (2) Has 10 or more full-time employees (or the hourly equivalent of 20,000 hours); and
- (3) Manufactures, processes, or otherwise uses any of the listed toxic chemicals or chemical categories above the applicable threshold. Currently, the thresholds are



25,000 pounds for chemicals manufactured (including imported) or processed, and 10,000 pounds for chemicals otherwise used.

The industries currently subject to reporting under EPCRA section 313 include SIC major groups 10 (metal mining), except SIC code 1011, 1081, and 1094; 12 (coal mining), except SIC code 1241; 20 through 39 (manufacturing); as well as industry codes 4911, 4931, 4939 (electricity generating facilities), limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce; 4953 (refuse systems), limited to facilities regulated under RCRA Subtitle C; 5169 (chemicals and allied products wholesaling, not elsewhere classified); 5171 (petroleum bulk stations and terminals); and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis). Qualifying federal facilities also report to TRI as a result of Executive Order 12856.

Under the final PBT (Persistent Bioaccumulative Toxic Chemicals) Rule, published October 29, 1999, all PBT chemicals are excluded from eligibility for alternate threshold reporting (i.e., Form A cannot be used to report PBT chemicals).

With the exception of the PBT chemicals, the Form A can be submitted by those facilities that would otherwise be required to submit a Form R, but determine that they are eligible to apply the alternate threshold based on the sum of amounts in waste. Therefore, the alternate threshold does not bring additional facilities into EPCRA section 313 regulation that are not already part of the regulated community.

#### **4(b) Information Requested**

##### **(I) Data Items**

The following information must be reported on a Form A pursuant to 40 CFR part 372:

- (1) Reporting year.
- (2) An indication of whether the chemical identified is being claimed as trade secret.
- (3) Chemical name or names and CAS number(s) (if applicable) of the chemical(s), or the category(ies) or the generic chemical name(s).
- (4) Signature of a senior management official certifying the following: pursuant to 40 CFR part 372.27, hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, the sum of reportable wastes did not exceed 500 pounds for this reporting year and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.
- (5) Date signed.
- (6) Facility name and address.
- (7) Mailing address of the facility if different than (6).
- (8) Toxic chemical release inventory facility identification number if known.
- (9) Name and telephone number of a Technical Contact.

- (10) The four-digit SIC codes for the facility or establishments in the facility.
- (11) Latitude and longitude coordinates for the facility.
- (12) Dun and Bradstreet Number of the facility.
- (13) EPA Identification Number(s) (RCRA I.D. Number(s) of the facility).
- (14) Facility NPDES Permit Number(s).
- (15) Underground Injection Well Code (UIC) I.D. Number(s) of the facility.
- (16) Name of the facility's Parent Company.
- (17) Parent Company's Dun and Bradstreet Number.

These 17 elements are a subset of the information collected on Form R. Beyond the change to element 3 which allows for multiple chemicals to be reported on a single Form A, the only element unique to the Form A is element 4. Element 4 of the Form A corresponds to the certification statement on Form R and represents a signed statement by a facility owner/operator or senior management official. Unlike Form R, the signed statement on the Form A certifies that the sum of amounts of the listed chemical in waste did not exceed 500 pounds and that the amounts manufactured, or processed, or otherwise used did not exceed 1 million pounds for that year.

A copy of the Form A is included in Attachment C. A copy of the TRI reporting package and instructions for the 1999 reporting cycle (February 2000) is included in Attachment E.

Justification for elements requested:

Elements 1 through 6 relate to the conditions being met in order to claim eligibility for the submission of a Form A. These elements are essential in meeting the statutorily mandated requirement of continuing to capture a substantial majority of releases for each listed EPCRA section 313 chemical.

Elements 7 through 17 are requested for identification purposes. Of these, elements 7 through 9 are necessary to determine which facility is claiming the alternate threshold along with the information needed to contact the claimant. Elements 10 through 17 are requested in order to cross-reference the facility and level of activity being certified with other reporting systems in addition to more accurately tracking the facility's TRI reporting history. These data elements are essential for enforcement purposes and have proven to be useful for cross program multimedia investigations.

(ii) Respondent Activities

The regulated community is expected to comply with the reporting requirements by completing the Form A and mailing it to EPA and the appropriate state agency. Section 313(g)(2) provides that a "facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or where data are not readily available, reasonable estimates of the amounts involved." Respondents are not required to develop new information.

The same level of assistance presently available to Form R respondents is available to those facilities applying the alternate threshold and completing the Form A. Instructions and guidance documents are available, and a toll-free hotline is available to handle general and technical inquiries from the regulated community. The following steps will be completed by a facility using the alternate threshold:

- Compliance Determination
- Calculations (Compliance)
- Completion of Form (Disclosure)
- Substantiation of a Trade Secret Claim (not performed by all respondents)
- Record keeping
- Supplier Notification (not performed by all respondents)
- Petition Submission (not a requirement)

Compliance Determination. Facilities must first determine if they are eligible to apply the alternate threshold, and/or provide supplier notification. The determination is based on the SIC code(s) for the facility, the number of full-time employees or equivalents, the chemicals manufactured, processed or otherwise used at the facility, and the quantity of those chemicals.

Calculations (Compliance). A facility has to calculate the annual reportable amount for a chemical in order to determine if the facility is eligible to apply the alternate threshold. The annual reportable amount is calculated as the combined total of the amounts released at the facility (including disposal), treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycling operations, combusted for the purpose of energy recovery at the facility, and transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, or disposal. In addition, the facility must also determine that it did not manufacture, process, or otherwise use more than 1 million pounds of the listed chemical.

Completion of Form (Disclosure). Each facility taking advantage of the alternate threshold must complete the Form A described under section 3(b)(I).

Substantiation of a Trade Secrecy Claim. Respondents wanting to make a trade secrecy claim for the chemical identity should refer to documentation requirements discussed in the Trade Secrecy ICR for EPCRA (EPA #1428, OMB #2050-0078).

Record keeping. Each facility taking advantage of the alternate threshold is required to maintain records for a period of three years from the date of the submission of the Form A, and to make them available upon request. These records provide substantiation that an appropriate threshold determination was made and that the sum of amounts in total waste did not exceed 500 pounds for that chemical for that reporting year. This documentation is necessary for any compliance effort verifying the claims made by a facility taking advantage of the alternate threshold. Facilities must maintain a copy of each Form A and Form R submitted, as well as the

documents, calculations, and other information they collected for developing the reports submitted.

Supplier Notification. No additional supplier notification requirements are associated with the Form A.

Petition Submission. No additional procedures relating to petition submissions are required by the Form A.

## **5 THE INFORMATION COLLECTED--AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT.**

### **5(a) Agency Activities**

EPA activities for this ICR parallel requirements established for reporting TRI releases on Form R (OMB #2070-0093, EPA #1363), approved February, 2000, including:

- Assistance to Respondents
- Data Management
- Data Processing and Quality Control
- Systems Maintenance and Operation
- Making the Data Available to the Public
- List Revisions and Petition Reviews
- Trade Secrecy Reviews

Assistance to Respondents. Assistance to respondents is offered in the same manner as described by the Form R ICR (OMB #2070-0093, EPA #1363). These assistance efforts extend to facilities for completion of a Form A.

Data Processing and Quality Control. Once a Form A is submitted and received by the EPCRA Reporting Center, the information is recorded into the TRIM Oracle database. If submitted electronically (floppy disk), the information is automatically read into TRIM; if the Form A was submitted in hardcopy, the information is manually keyed into TRIM. Automated data quality checks and field verifications are built into the electronic reporting software (ATRS - Automated TRI Reporting Software). Additional data quality checks, field verifications, and reconciliations are performed sequentially once the electronic submission is read into TRIM or for the first time once the hardcopy is completely keyed in.

Systems Maintenance and Operations. The TRIM database is maintained on an Oracle server on an isolated, secure local area network at the EPCRA Reporting Center. Standard database management activities are routinely performed to maintain data and system integrity. Tape backups of the TRIM database are made nightly.

Availability of the Data. In accordance with statute, a copy of the database is publicly available in electronic format using the Agency's internet site (the data is also maintained on the Agency's intranet site). Users can access the data using either Envirofacts or TRI Explorer. Both tools allow the user to view individual chemical submissions, all submissions for a given facility, or summary information by Zip Code, city, county, state, EPA Region, or nationally. Searches can be conducted in numerous ways, including on a chemical basis or by industry SIC code.

In addition to the public electronic database, EPA has also made the TRI information available through a variety of other electronic and non-electronic means. EPA prepares a national data release report that describes the annual data received and presents extensive summary information in text, charts, and graphics. Electronic versions of the database are available in .dbf and comma delimited format from the Agency's web site or NTIS. Versions of the Oracle TRIM database are available upon special request.

Trade Secrecy Reviews. A respondent may claim a chemical as trade secret on the Form A in the same manner as when filing a Form R. When a respondent claims a chemical identity as a trade secret, a substantiation must be included. Respondents often claim trade secret status on Form R but do not provide substantiation. In those cases, EPA must review the claim and contact the respondent to determine the true intent. In many cases, the trade secret claim was not intended and no substantiation is made. Trade Secrecy reviews, including the costs to EPA, are discussed in greater detail in the ICR for the Trade Secrecy Rule for EPCRA (EPA #1428, OMB #2050-0078).

## **5(b) Collection Methodology and Management**

The Form A can be submitted using EPA's magnetic media reporting program, and EPA encourages the submission of Form As electronically. The use of electronic reporting serves to reduce the reporting burden on industry. It also reduces both the cost and the time required for EPA to enter, process, and make the data available. For the 1998 TRI reporting cycle, 51% of Form As and 66% of Form Rs were submitted electronically.

## **5(c) Small Entity Flexibility**

Small entities, as defined by the statute, are exempt from reporting. In addition, the alternate threshold is advantageous to those entities which might be classified as small under other definitions. The range established by the 500 pound category may apply proportionally higher to smaller entities, thereby resulting in greater regulatory relief for these facilities. EPA considered a number of different threshold levels when it promulgated this rule. This alternate threshold was chosen because it best balanced burden reduction with the need for data and information, and is consistent with the requirements of EPCRA section 313.

Furthermore, EPA has prepared various materials to assist facilities in reporting to TRI,

thereby lowering the cost of reporting. These materials include detailed reporting instructions, a question and answer document, magnetic media reporting, general technical guidance, and industry specific guidance documents. In addition, EPA maintains a toll-free hotline to answer regulatory and technical questions to assist facilities.

Through the development of the Form A (in conjunction with the petition process, electronic reporting, efforts to review the original list of TRI chemicals to determine whether any of those chemicals do not meet the listing criteria, and other mechanisms), EPA has reduced, to the extent practicable and appropriate at this time, the burden on persons providing the information being collected under EPCRA section 313. EPA continues to work with affected parties to identify opportunities for further burden reduction.

### 5(d) Collection Schedule

Section 313 requires annual reporting for the Form R. The respondent and Agency schedule of activities associated with the collection and processing of information under EPCRA section 313 is unchanged for the alternate threshold. Whether making a Form R submission or submitting a Form A based on the alternate threshold, respondents must submit their forms to EPA for any given reporting year on or before July 1 of the succeeding year.

## 6 ESTIMATING THE BURDEN AND COST OF THE COLLECTION

### 6(a) Estimating Respondent Burden

This section presents EPA's estimates of the burden hours to complete the information collection activities associated with the alternate threshold. Included in this estimate of burden is the time needed to perform the steps outlined in Section 3 of this document. The estimates presented here were developed in the economic analysis prepared for the alternate threshold rule, based on EPA and respondent experience, the economic analysis for the final rule, previous ICRs, and information acquired through compliance activities.

The tasks associated with the alternate threshold reporting include report calculations and completion and record keeping and mailing.<sup>1</sup> Specifically:

" **Calculations/Certification:** Facilities must gather data and perform calculations to determine eligibility for the alternate threshold. This includes the time to search data sources, and the time to complete and review the information.

<sup>1</sup> Facilities must also determine whether they are within a covered Standard Industrial Classification (SIC) Facilities must also determine whether they are within a covered SIC code; and manufacture, process or otherwise use a hazardous substance at the threshold quantity. EPA assumes that the first two steps require negligible time. The threshold quantity is already accounted for in the Form R information collection request (OMB #2070-0093).

- " **Form Completion:** Facilities must complete the form. Facilities can now use a single Form A to submit certifications for all chemicals that are eligible for the alternate threshold. This includes the time to transmit or otherwise disclose the information.
- " **Record keeping:** Facilities must maintain record keeping systems.

The burden for completing each of these steps is described below.

#### Calculations/Certification

In order to certify that a listed toxic chemical qualifies for the alternate threshold, a facility must estimate its annual reportable amount and the amount manufactured, processed, or otherwise used.<sup>2</sup> If a facility's annual reportable amount for a listed toxic chemical is 500 lbs or below, the facility is eligible to apply the alternate threshold of 1 million pounds manufactured, processed or otherwise used.

EPA has previously estimated the time required to calculate different sections of the Form R. These estimates were made in the economic analysis for the original EPCRA section 313 rulemaking and the economic analysis for the amendments to the Form R required by the Pollution Prevention Act of 1990. The calculations needed to determine eligibility for the Form A are a subset of the calculations necessary to complete Form R. Thus, the time required to calculate the annual reportable amount was estimated by aggregating EPA's earlier estimates of the time required to calculate each of the sections of Form R that are relevant to determining annual reportable amount.

As shown in Table 1, EPA estimates that calculating an annual reportable amount will require an average of 30.2 hours for each listed toxic chemical that the facility must report under EPCRA section 313.

**Table 1**

#### **Unit Time and Cost Estimates for Form A**

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<sup>2</sup> The time req The time required to det The time required to determine the amount manufactured, processed or otherwise used is compliance determination estimate in the Form R ICR (OMB #20 70-0093).

Activity	Unit time estimates (hours)				Unit cost (2000 dollars)
	Managerial \$93.99/hr	Technical \$69.77/hr	Clerical \$27.26/hr	Total (1 chemical per form)	
<b>Calculations/ Certification</b>	11.1	17.7	1.4	30.2	\$2,410
<b>Record keeping</b>	0.0	2.4	0.6	3.0	\$184
<b>Form A Completion</b>	0.1	1.2	0.1	1.4	\$96
<b><i>Total</i></b>	<i>11.2</i>	<i>21.3</i>	<i>2.1</i>	<i>34.6</i>	<i>\$2,690</i>

### Form Completion

If a facility is eligible to apply the alternate threshold, it must complete the Form A. The facility completes one Form A that contains certifications for all the listed toxic chemicals to which it is applying the alternate threshold. As shown in Table 1, EPA estimates that completing the Form A will require an average of 1.4 hours for each listed toxic chemical that the facility must report under EPCRA section 313.

### Recordkeeping

After a facility has certified a listed toxic chemical as eligible for the alternate threshold, it incurs additional labor costs for record keeping. Record keeping allows a facility to use the information in making calculations in subsequent years, and as documentation in the event it receives a compliance audit. Facilities may maintain such records as estimation methodology and calculations, engineering reports, inventory, incident and operating logs, and any other supporting materials needed to document eligibility for the alternate threshold. Record keeping is estimated to require 3 hours per certification.

### Burden for Form A

The respondent burden for a facility using Form A depends on how many listed toxic chemicals the facility is certifying on the form. For a facility certifying for a single listed toxic chemical, the burden is estimated to average 34.6 hours for facilities submitting a certification statement under EPCRA section 313. (This includes the time required for calculations, Form A completion, and record keeping.) By comparison, the average time required for calculations, form completion, and record keeping for Form R is estimated to average 52.1 hours per form. Thus, for a facility filing Form A for a single chemical, the alternate threshold yields an average savings of 17.5 hours.

Currently, the option of certifying multiple chemicals on a single Form A is being vastly



under utilized by respondents. Since this option was only recently permitted, it is expected that the use of multiple certifications per form will increase as facilities become familiar with this option. Since 1995, manufacturing facilities which submitted Form A, sent in an average of 2.2 Form A s per year per facility. The new industrial segment which was recently included under TRI reporting submitted an average of 12.7 Form A s per facility. Although the number of Form A s per facility submitted by respondents within the new industrial segment was high, only a limited number of facilities within this segment took advantage of the option of using Form A. It is anticipated that in future years as more facilities use Form A that the average number of chemicals per industry will actually be much lower. Grouping both manufacturing and industrial segments, an overall average of 2.4 Form A s per facility were submitted to EPA for the 1998 data year.

For a facility certifying multiple chemicals on a Form A, the burden on the facility is reduced. The per facility burden for certifying multiple chemicals is shown in Table 2.

**Table 2**  
**Burden per Facility for Certifying**  
**Multiple Chemicals on Form A**

Activity	Burden Hrs.					
	1 Chemical		2 Chemicals		3 Chemicals	
	hours	\$	hours	\$	hours	\$
Calculations/Certification	30.2	\$2,410	60.4	\$4,820	90.6	\$7,230
Record keeping	3	\$184	6	\$368	9	\$552
Form A Completion	1.4	\$96	1.4	\$96	1.4	\$96
Total Burden per Facility	34.6	\$2,690	67.8	\$5,284	101	\$7,878
Average Burden per Chemical	34.6	\$2,690	33.9	\$2,642	33.7	\$2,626

#### **6(b) Number of Responses/Respondents**

The number of respondents and responses is based on the actual number of Form As submitted to EPA. For the manufacturing segment, usage of Form A, as shown in Table 3, has increased since 1995, the first year the form was available. Only one year of actual data exists for the recently added industrial segment.

The total number of respondents and responses is projected to continual increase over the next several years. This will occur as additional facilities use Form A as a means to reduce burden. Between 1995 (when Form A was first introduced) and 1998, usage within the manufacturing sector has increased by 12% , 42%, and 22% per year respectively. For purposes of this analysis, it is anticipated that Form A usage will increase 10% per year between 1998 and 2002. The number of respondents in 2002 will be approximately 90% of all eligible respondents of Form A. The number of respondents at this point forward will be considered constant.

A recent change in the TRI regulations make some chemicals ineligible for reporting on Form A, starting with the 2000 reporting year. This change is the result of the PBT final rule, which requires that PBT chemicals be reported on Form R. Currently, 62 facilities report PBT chemicals on Form A. An adjustment in the total number of facilities which are anticipated to submit Form A has been made in Table 3, to account for the exclusion of PBT chemicals from Form A eligibility.

**Table 3**  
**Usage of Form A**  
**(Responses based on one chemical per Form A)**

Report year	Data Year	Manufacturing		Industrial		Subtotal		PBT (reduction)		Total	
		Facilities	Responses	Facilities	Responses	Facilities	Responses	Facilities	Responses	Facilities	Responses
	1995	3131	6675	---	---						
	1996	3473	7507	---	---						
	1997	5037	10686	---	---						
1999	1998	5575	13090	35	446	5610	13536			5610	13536
Projected											
2000	1999	6132	13490	51	490	6081	13980	62	62	6019	13918
2001	2000	6745	14839	56	540	6801	15379	62	62	6739	15317
2002	2001	7420	16324	61	594	7481	16918	62	62	7419	16856
2003	2002	8162	17956	68	653	8094	18609	62	62	8032	18547

Report year	Data Year	Manufacturing		Industrial		Subtotal		PBT (reduction)		Total	
		Facilities	Responses	Facilities	Responses	Facilities	Responses	Facilities	Responses	Facilities	Responses
Total 2001 - 2003										22190	50720
Average 2001 - 2003										7397	16906

### Total Respondent Burden

Responses tallied in Table 3 are based on one chemical being certified per each Form A. EPA anticipates that some facilities will certified multiple chemicals on each Form A. For calculating burden for this ICR, an estimate of 25% of reported chemicals will be certified as multiple entries on a Form A. A corresponding reduction in responses will occur as multiple chemicals are certified on the same form. Total respondent burden is the product of the burden to complete Form A and the number of forms submitted.

**Table 4**  
**Burden per Response**

		1 Chemical/ Form	2 Chemicals/ Form	Total
# Respondents	7,397			7,397
# Chemicals reported	16,906	12,680 (75%)	4,226 (25%)	
# Forms Submitted		12,680	2,113	14,793
Burden hrs./Form		34.6	67.8	
Subtotal hrs.		438,728	143,261	581,989
Labor Cost/Form		\$2,690	\$5,284	
Subtotal \$		\$34,109,200	\$11,165,092	\$45,274,292

There are no specific capital costs associated directly with this information collection activity. Labor hours are divided into three categories: managerial, technical, and clerical.

Updated 2000 hourly labor rates, including fringe benefits and overhead, were developed by EPA for each of these categories using the methodology developed for EPA's Comprehensive Assessment Information Rule (CAIR). The new wage rates were calculated using current data on salaries and benefits in the manufacturing sector for these three labor categories.

Wage data used in developing the basic wage rates for this analysis were derived from 1996 wage information published by the Bureau of Labor Statistics (BLS) for all goods-producing, private industries. The managerial, technical, and clerical wage rates are based on wage information for four BLS occupation categories: engineers, accountants, attorneys, and secretaries. As presented in Table 5, the managerial and technical level wage rates are composites of the BLS wage rates for several occupation categories and levels. The weighting factors used to develop the managerial and technical wage rates are based on information provided by the chemical industry and chemical industry trade associations on the typical fraction of total reporting effort that is accounted for by each specific BLS occupation category. The clerical wage rate is an average of all the secretarial wage levels provided by BLS.

The 1996 composite annual salary estimates were adjusted to first-quarter 2000 dollars using the Employment Cost Index (ECI) for white-collar occupations in private industries. The 2000 adjusted, composite salary for the managerial, technical, and clerical labor categories was then multiplied by benefits and overhead factors to estimate a 2000 loaded, annual salary. Detailed benefits data for white-collar occupations in private, goods-producing industries were used to account for the additional cost of benefits for managerial, technical, and clerical labor. The overhead factor of 17 percent is based on information provided by the chemical industry and chemical industry trade associations. The loaded annual salary was then divided by 2,080 hours (i.e., the average annual number of hours for a full-time employee) to derive the loaded, hourly wage rates used in this analysis for each labor category. The hourly wage rates are \$93.99 for managerial personnel, \$69.77 for technical personnel, and \$27.26 for clerical personnel, all in 2000 dollars.

**TABLE 5**  
**LOADED HOURLY WAGE RATES BY LABOR CATEGORY**

Labor Category	Occupation (levels)	June 1996 Average Salary	Weighting Factor	1996 Composite Salary	ECI Ratio 6/96:3/00	2000 Adjusted Salary	1999 Benefits (% Salary)	Overhead (%Salary)	2000 Loaded Annual Salary	2000 Loaded Hourly Rate
Managerial	Engineer (VI-VIII)	\$104,971	10/17	\$61,748						
	Attorney (IV-VI)	\$116,255	5/17	\$34,193						
	Accountant (V-VI)	\$82,030	2/17	\$9,651						
	Composite			\$105,592	1.177	\$124,282	40.3%	17.0%	\$195,495	\$93.99
Technical	Engineer (III-VIII)	\$83,243	5/6	\$69,369						
	Accountant (III-VI)	\$65,780	1/6	\$10,963						
	Composite			\$80,332	1.127	\$90,534	43.3%	17.0%	\$145,126	\$69.77
Clerical	Secretarial (I-V)	\$31,502	1/1	\$31,502						
	Composite			\$31,502	1.147	\$36,132	39.9%	17.0%	\$56,692	\$27.26

Composite Salaries are determined by multiplying average salaries by the weighting factor and summing across occupations.

### 6(c) Estimating Agency Burden and Cost

EPA will incur costs to process the Form As, perform outreach and training, disseminate information, develop policy and guidance, respond to petitions, and perform compliance and enforcement audits. EPA measures its resource requirements in terms of the number of data elements that must be processed. (A data element is a single unit of information reported on Form R or Form A, such as facility address or the number of pounds of the chemical released to air, that is entered into the TRI Information Management System.)

There are cost savings to EPA associated with a Form A because a Form A contains much less information, and therefore, fewer data elements, than a Form R. A completed Form A with a single certification contains an average of 33 data elements. The certification for each additional chemical will add two data elements to the average number per form. Therefore, a Form A with two certifications will have an average of 35 data elements.

Based on past experience in operating the TRI program, there are 2.61 employees (also known as full time equivalents, or FTEs) and \$551,600 in extramural costs for each million data elements processed. The analysis assumes that half of FTE requirement is met by EPA employees at the general pay scale grade 12 (i.e., GS-12, with a loaded salary of \$78,243) and half by employees at grade 13 (i.e., GS-13, at a loaded salary of \$93,042). Thus, the incremental increase in FTEs and extramural cost for TRI expansion is estimated by applying the following equations:

Incremental FTEs = [2.61 Incremental FTEs per Million Data Elements] \* [Number of Data Elements in Millions]

Incremental FTE  
Cost= [2.61 Incremental FTEs per Million Data Elements] \* [\$85,643 per FTE] \* [Number of Data Elements in Millions]

Incremental  
Extramural Cost = [\$551,600 Incremental Extramural Cost per Million Data Elements] \* [Number of Data Elements in Millions]

	<b>1 Chemical/Form</b>	<b>2 Chemicals/Form</b>	<b>Total</b>
<b># Forms</b>	12,680	2,113	
<b># Data Elements/Form</b>	33	35	
<b>Subtotal # Data Elements</b>	418,440	73,955	492,395

Using this information, handling Form A would require 1.3 Agency FTEs (at a cost of \$110,064), and \$271,605 in extramural resources for a total Agency cost of \$381,668 in year 2000 dollars.

#### **6(d) Bottom Line Burden Hours and Costs**

Total respondent burden and cost for completing the Form A are estimated at 581,989 burden hours with a labor cost of \$45.3 million per year. Total EPA cost for processing the Form As will be approximately \$381,668 per year.

#### **6(e) Reasons for Change in Burden**

The estimated burden described above differs from what is currently in OMB s inventory for alternate threshold reporting (13,157 respondents, 9,072 responses, and 646,875 burden hours). The burden estimated in this supporting statement differs from OMB s inventory as a result of both an adjustment and a program change.

The adjustment was made by calculating the number of eligible respondents and responses using the most recent TRI data as a baseline. Both the actual number of respondents and chemicals being reported on Form A are lower than was estimated in the previous ICR. The actual data starting from 1995, when Form A was first introduced, does show a definite increase in the usage of the form. However, this increase is occurring over several years, instead of suddenly as was previously assumed. The portion of the change due to this adjustment decreases burden by 62,772 hrs.

The program change was made by excluding the reporting of PBT chemicals on Form A. This change reduces the burden associated with this collection. The portion of the change due to this regulatory change decreases burden by 2,114 hrs.

#### **6(f) Burden Statement**

The annual public burden for this collection of information, which is approved under OMB Control No. 2070-0143, is estimated to average 34.6 hours per each form, for a facility which certifies one chemical per Form A. For facilities which choose to certify two chemicals per Form A, the estimated burden is 67.8 hr per form.

Responding to this information collection requires 1) determining whether a listed toxic chemical is eligible for certification under the alternate threshold, and 2) completing the Form A. The burden of determining eligibility for certification is estimated to average 33.2 hours for each chemical that is certified. The burden of completing the Form A is estimated to average 1.4 hours, regardless of the number of chemicals being certified. The total burden per response is the combination of these two, and will vary depending on the number of listed toxic chemicals being certified.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.



**ATTACHMENT A**

**RELEVANT STATUTES: EPCRA SECTION 313 AND PPA SECTION 6607**

**EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT SECTION  
313**

**UNITED STATES CODE  
TITLE 42 - THE PUBLIC HEALTH AND WELFARE  
CHAPTER 116 - EMERGENCY PLANNING AND COMMUNITY  
RIGHT-TO-KNOW**

**SUBCHAPTER I - EMERGENCY PLANNING AND NOTIFICATION**

**§ 11023. Toxic chemical release forms**

(a) Basic requirement

The owner or operator of a facility subject to the requirements of this section shall complete a toxic chemical release form as published under subsection (g) of this section for each toxic chemical listed under subsection (c) of this section that was manufactured, processed, or otherwise used in quantities exceeding the toxic chemical threshold quantity established by subsection (f) of this section during the preceding calendar year at such facility. Such form shall be submitted to the Administrator and to an official or officials of the State designated by the Governor on or before July 1, 1988, and annually thereafter on July 1 and shall contain data reflecting releases during the preceding calendar year.

(b) Covered owners and operators of facilities

(1) In general

(A) The requirements of this section shall apply to owners and operators of facilities that have 10 or more full-time employees and that are in Standard Industrial Classification Codes 20 through 39 (as in effect on July 1, 1985) and that manufactured, processed, or otherwise used a toxic chemical listed under subsection (c) of this section in excess of the quantity of that toxic chemical established under subsection (f) of this section during the calendar year for which a release form is required under this section.

(B) The Administrator may add or delete Standard Industrial Classification Codes for purposes of subparagraph (A), but only to the extent necessary to provide that each Standard Industrial Code to which this section applies is relevant to the purposes of this section.

(C) For purposes of this section -

(i) The term "manufacture" means to produce, prepare, import, or compound a toxic chemical.

(ii) The term "process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce - (I) in the same form or

physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such chemical, or (II) as part of an article containing the toxic chemical.

(2) Discretionary application to additional facilities

The Administrator, on his own motion or at the request of a Governor of a State (with regard to facilities located in that State), may apply the requirements of this section to the owners and operators of any particular facility that manufactures, processes, or otherwise uses a toxic chemical listed under subsection (c) of this section if the Administrator determines that such action is warranted on the basis of toxicity of the toxic chemical, proximity to other facilities that release the toxic chemical or to population centers, the history of releases of such chemical at such facility, or such other factors as the Administrator deems appropriate.

(c) Toxic chemicals covered

The toxic chemicals subject to the requirements of this section are those chemicals on the list in Committee Print Number 99-169 of the Senate Committee on Environment and Public Works, titled "Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986" (42 U.S.C. 11023) (including any revised version of the list as may be made pursuant to subsection (d) or (e) of this section).

(d) Revisions by Administrator

(1) In general

The Administrator may by rule add or delete a chemical from the list described in subsection (c) of this section at any time.

(2) Additions

A chemical may be added if the Administrator determines, in his judgment, that there is sufficient evidence to establish any one of the following:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans -

(i) cancer or teratogenic effects, or

(ii) serious or irreversible - (I) reproductive dysfunctions, (II) neurological

disorders, (III) heritable genetic mutations, or (IV) other chronic health effects.

(C) The chemical is known to cause or can reasonably be anticipated to cause, because of -

- (i) its toxicity,
- (ii) its toxicity and persistence in the environment, or
- (iii) its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section. The number of chemicals included on the list described in subsection © of this section on the basis of the preceding sentence may constitute in the aggregate no more than 25 percent of the total number of chemicals on the list. A determination under this paragraph shall be based on generally accepted scientific principles or laboratory tests, or appropriately designed and conducted epidemiological or other population studies, available to the Administrator.

### (3) Deletions

A chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph (2).

### (4) Effective date

Any revision made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

## (e) Petitions

### (1) In general

Any person may petition the Administrator to add or delete a chemical from the list described in subsection (c) of this section on the basis of the criteria in subparagraph (A) or (B) of subsection (d)(2) of this section. Within 180 days after receipt of a petition, the Administrator shall take one of the following actions:

- (A) Initiate a rulemaking to add or delete the chemical to the list, in accordance with subsection (d)(2) or (d)(3) of this section.
- (B) Publish an explanation of why the petition is denied.

### (2) Governor petitions

A State Governor may petition the Administrator to add or delete a chemical from the list described in subsection (c) of this section on the basis of the criteria in subparagraph (A), (B), or (c) of subsection (d)(2) of this section. In the case of such a petition from a State Governor to delete a chemical, the petition shall be treated in the same manner as a petition received under paragraph (1) to delete a chemical. In the case of such a petition from a State Governor to add a chemical, the chemical will be added to the list within 180 days after receipt of the petition, unless the Administrator -

- (A) initiates a rulemaking to add the chemical to the list, in accordance with subsection (d)(2) of this section, or

- (B) publishes an explanation of why the Administrator believes the petition does not meet the requirements of subsection (d)(2) of this section for adding a chemical to the list.

(f) Threshold for reporting

(1) Toxic chemical threshold amount

The threshold amounts for purposes of reporting toxic chemicals under this section are as follows:

- (A) With respect to a toxic chemical used at a facility, 10,000 pounds of the toxic chemical per year.

- (B) With respect to a toxic chemical manufactured or processed at a facility -

- (i) For the toxic chemical release form required to be submitted under this section on or before July 1, 1988, 75,000 pounds of the toxic chemical per year.

- (ii) For the form required to be submitted on or before July 1, 1989, 50,000 pounds of the toxic chemical per year.

- (iii) For the form required to be submitted on or before July 1, 1990, and for each form thereafter, 25,000 pounds of the toxic chemical per year.

(2) Revisions

The Administrator may establish a threshold amount for a toxic chemical different from the amount established by paragraph (1). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(g) Form

(1) Information required

Not later than June 1, 1987, the Administrator shall publish a uniform toxic chemical release form for facilities covered by this section. If the Administrator does not publish such a form, owners and operators of facilities subject to the requirements of this section shall provide the information required under this subsection by letter postmarked on or before the date on which the form is due. Such form shall -

(A) provide for the name and location of, and principal business activities at, the facility;

(B) include an appropriate certification, signed by a senior official with management responsibility for the person or persons completing the report, regarding the accuracy and completeness of the report; and

(C) provide for submission of each of the following items of information for each listed toxic chemical known to be present at the facility:

(i) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical.

(ii) An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year.

(iii) For each waste stream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that waste stream.

(iv) The annual quantity of the toxic chemical entering each environmental medium.

## (2) Use of available data

In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation. In order to assure consistency, the Administrator shall require that data be expressed in common units.

## (h) Use of release form

The release forms required under this section are intended to provide information to the Federal, State, and local governments and the public, including citizens of communities surrounding covered facilities. The release form shall be available, consistent with section 11044(a) of this title, to inform persons about releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research

and data gathering; to aid in the development of appropriate regulations, guidelines, and standards; and for other similar purposes.

(I) Modifications in reporting frequency

(1) In general

The Administrator may modify the frequency of submitting a report under this section, but the Administrator may not modify the frequency to be any more often than annually. A modification may apply, either nationally or in a specific geographic area, to the following:

- (A) All toxic chemical release forms required under this section.
- (B) A class of toxic chemicals or a category of facilities.
- (C) A specific toxic chemical.
- (D) A specific facility.

(2) Requirements

A modification may be made under paragraph (1) only if the Administrator -

- (A) makes a finding that the modification is consistent with the provisions of subsection (h) of this section, based on -
  - (i) experience from previously submitted toxic chemical release forms, and
  - (ii) determinations made under paragraph (3), and
- (B) the finding is made by a rulemaking in accordance with section 553 of title 5.

(3) Determinations

The Administrator shall make the following determinations with respect to a proposed modification before making a modification under paragraph (1):

- (A) The extent to which information relating to the proposed modification provided on the toxic chemical release forms has been used by the Administrator or other agencies of the Federal Government, States, local governments, health professionals, and the public.
- (B) The extent to which the information is (i) readily available to potential users from other sources, such as State reporting programs, and (ii) provided to the Administrator under another Federal law or through a State program.
- (C) The extent to which the modification would impose additional and unreasonable burdens on facilities subject to the reporting requirements under this section.

(4) 5-year review

Any modification made under this subsection shall be reviewed at least once every 5 years. Such review shall examine the modification and ensure that the requirements of paragraphs (2) and (3) still justify continuation of the modification. Any change to a modification reviewed under this paragraph shall be made in accordance with this subsection.

(5) Notification to Congress

The Administrator shall notify Congress of an intention to initiate a rulemaking for a modification under this subsection. After such notification, the Administrator shall delay initiation of the rulemaking for at least 12 months, but no more than 24 months, after the date of such notification.

(6) Judicial review

In any judicial review of a rulemaking which establishes a modification under this subsection, a court may hold unlawful and set aside agency action, findings, and conclusions found to be unsupported by substantial evidence.

(7) Applicability

A modification under this subsection may apply to a calendar year or other reporting period beginning no earlier than January 1, 1993.

(8) Effective date

Any modification made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any modification made on or after December 1 of any calendar year and before January 1 of the next calendar year shall take effect beginning with the calendar year following such next calendar year.

(j) EPA management of data

The Administrator shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the Administrator under this section. The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost reimbursable basis.

(k) Report

Not later than June 30, 1991, the Comptroller General, in consultation with the Administrator and appropriate officials in the States, shall submit to the



Congress a report including each of the following:

- (1) A description of the steps taken by the Administrator and the States to implement the requirements of this section, including steps taken to make information collected under this section available to and accessible by the public.
- (2) A description of the extent to which the information collected under this section has been used by the Environmental Protection Agency, other Federal agencies, the States, and the public, and the purposes for which the information has been used.
- (3) An identification and evaluation of options for modifications to the requirements of this section for the purpose of making information collected under this section more useful.

(l) Mass balance study

(1) In general

The Administrator shall arrange for a mass balance study to be carried out by the National Academy of Sciences using mass balance information collected by the Administrator under paragraph (3). The Administrator shall submit to Congress a report on such study no later than 5 years after October 17, 1986.

(2) Purposes

The purposes of the study are as follows:

- of
- (A) To assess the value of mass balance analysis in determining the accuracy of information on toxic chemical releases.
  - (B) To assess the value of obtaining mass balance information, or portions thereof, to determine the waste reduction efficiency of different facilities, or categories of facilities, including the effectiveness of toxic chemical regulations promulgated under laws other than this chapter.
  - (C) To assess the utility of such information for evaluating toxic chemical management practices at facilities, or categories of facilities, covered by this section.
  - (D) To determine the implications of mass balance information collection on a national scale similar to the mass balance information collection carried out by the Administrator under paragraph (3), including implications of the use of such collection as part of a national annual quantity toxic chemical release program.

(3) Information collection

(A) The Administrator shall acquire available mass balance information from States which currently conduct (or during the 5 years after October 17, 1986 initiate) a mass balance-oriented annual quantity toxic chemical release program.

If information from such States provides an inadequate representation of industry classes and categories to carry out the purposes of the study, the Administrator also may acquire mass balance information necessary for the study from a representative number of facilities in other States.

(B) Any information acquired under this section shall be available to the public,

except that upon a showing satisfactory to the Administrator by any person that the information (or a particular part thereof) to which the Administrator or any officer, employee, or representative has access under this section if made public would divulge information entitled to protection under section 1905 of title 18, such information or part shall be considered confidential in accordance with the purposes of that section, except that such information or part may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this section.

(C) The Administrator may promulgate regulations prescribing procedures for collecting mass balance information under this paragraph.

(D) For purposes of collecting mass balance information under subparagraph

(A), the Administrator may require the submission of information by a State or facility.

#### (4) Mass balance definition

For purposes of this subsection, the term "mass balance" means an accumulation of the annual quantities of chemicals transported to a facility, produced at a facility, consumed at a facility, used at a facility, accumulated at a facility, released from a facility, and transported from a facility as a waste or as a commercial product or byproduct or component of a commercial product or byproduct.

**POLLUTION PREVENTION ACT SECTION 6607**

**UNITED STATES CODE**

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**

**CHAPTER 133 - POLLUTION PREVENTION**

**§ 13106. Source reduction and recycling data collection**

**(a) Reporting requirements**

Each owner or operator of a facility required to file an annual toxic chemical release form under section 11023 of this title for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 11023(c) of this title. This section shall take effect with the annual report filed under section 11023 of this title for the first full calendar year beginning after November 5, 1990.

**(b) Items included in report**

The toxic chemical source reduction and recycling report required under subsection (a) of this section shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

- . (1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (7). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment
- (2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.
- (3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate.
  - (A) Equipment, technology, process, or procedure modifications.
  - (B) Reformulation or redesign of products.
  - (C) Substitution of raw materials.

- (D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.
- (4) The amount expected to be reported under paragraph (1) and (2) for the two calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).
- (5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.
- (6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.
- (7) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.
- (8) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year. For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA provisions

The provisions of sections 11042, 11045(c), and 11046 of this title shall apply to the reporting requirements of this section in the same manner as to the reports required under section 11023 of this title. The Administrator may modify the form required for purposes of reporting information under section 11023 of this title to the extent he deems necessary to include the additional information required under this section.

(d) Additional optional information

Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) Availability of data

Subject to section 11042 of this title, the Administrator shall make data collected under this section publicly available in the same manner as the data collected under section 11023 of this title.

**ATTACHMENT B**

**MAJOR REGULATIONS SPECIFIC TO FORM A:  
40 CFR §372.10, §372.27 AND §372.95**

## **TITLE 40--PROTECTION OF ENVIRONMENT**

### **CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY**

#### **PART 372--TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW**

##### **Subpart A--General Provisions**

##### **Sec. 372.10 Recordkeeping.**

(d) Each owner or operator who determines that the owner operator may apply the alternate threshold as specified under Sec. 372.27(a) must retain the following records for a period of 3 years from the date of the submission of the certification statement as required under Sec. 372.27(b):

(1) A copy of each certification statement submitted by the person under Sec. 372.27(b).

(2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishment is eligible to apply the alternate threshold as specified in Sec. 372.27.

(3) Documentation supporting the certification statement submitted under Sec. 372.27(b) including:

(i) Data supporting the determination of whether the alternate threshold specified under Sec. 372.27(a) applies for each toxic chemical.

(ii) Documentation supporting the calculation of annual reportable amount, as defined in Sec. 372.27(a), for each toxic chemical, including documentation supporting the calculations and the calculations of each data element combined for the annual reportable amount.

(iii) Receipts or manifests associated with the transfer of each chemical in waste to off-site locations.

## **Subpart B--Reporting Requirements**

### **Sec. 372.27 Alternate threshold and certification.**

(a) With respect to the manufacture, process, or otherwise use of a toxic chemical, the owner or operator of a facility may apply an alternate threshold of 1 million pounds per year to that chemical if the owner or operator calculates that the facility would have an annual reportable amount of that toxic chemical not exceeding 500 pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, and/or disposal. These volumes correspond to the sum of amounts reportable for data elements on EPA Form R (EPA Form 9350-1; Rev. 12/4/93) as Part II column B or sections 8.1 (quantity released), 8.2 (quantity used for energy recovery on-site), 8.3 (quantity used for energy recovery off-site), 8.4 (quantity recycled on-site), 8.5 (quantity recycled off-site), 8.6 (quantity treated on-site), and 8.7 (quantity treated off-site).

(b) If an owner or operator of a facility determines that the owner or operator may apply the alternate reporting threshold specified in paragraph (a) of this section for a specific toxic chemical, the owner or operator is not required to submit a report for that chemical under Sec. 372.30, but must submit a certification statement that contains the information required in Sec. 372.95. The owner or operator of the facility must also keep records as specified in Sec. 372.10(d).

(c) Threshold determination provisions of Sec. 372.25 and exemptions pertaining to threshold determinations in Sec. 372.38 are applicable to the determination of whether the alternate threshold has been met.

(d) Each certification statement under this section for activities involving a toxic chemical that occurred during a calendar year at a facility must be submitted to EPA and to the State in which the facility is located on or before July 1 of the next year.



## **Subpart E--Forms and Instructions**

### **Sec. 372.95 Alternate threshold certification and instructions.**

(a) Availability of the alternate threshold certification statement and instructions. Availability of the alternate threshold certification statement and instructions is the same as provided in Sec. 372.85(a) for availability of the reporting form and instructions.

(b) Alternate threshold certification statement elements. The following information must be reported on an alternate threshold certification statement pursuant to Sec. 372.27(b):

- (1) Reporting year.
- (2) An indication of whether the chemical identified is being claimed as trade secret.
- (3) Chemical name and CAS number (if applicable) of the chemical, or the category name.
- (4) Signature of a senior management official certifying the following: pursuant to 40 CFR 372.27, "I hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, the annual reportable amount, as defined in 40 CFR 372.27(a), did not exceed 500 pounds for this reporting year and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year."
- (5) Date signed.
- (6) Facility name and address.
- (7) Mailing address of the facility if different than paragraph (b)(6) of this section.
- (8) Toxic chemical release inventory facility identification number if known.
- (9) Name and telephone number of a technical contact.
- (10) The four-digit SIC codes for the facility or establishments in the facility.
- (11) Latitude and longitude coordinates for the facility.
- (12) Dun and Bradstreet Number of the facility.
- (13) EPA Identification Number(s) (RCRA) I.D. Number(s) of the facility.
- (14) Facility NPDES Permit Number(s).
- (15) Underground Injection Well Code (UIC) I.D. Number(s) of the facility.
- (16) Name of the facility's parent company.
- (17) Parent company's Dun and Bradstreet Number.

**ATTACHMENT C**

**FORM A**

**ATTACHMENT D**  
**RECENT CHANGES IN TRI BURDEN**

# CHANGES in TRI BURDEN FROM 1992 to 2000

Activity - Explanation	# 1363 - Form R, etc. (OMB #2070-0093)		# 1704 - Form A (OMB #2070-0143)		# 1784 - Industry Expansion (OMB #2070-0157)	
	# Responses	Burden Hours	Responses	Burden Hours	Responses	Burden Hours
<b>1992 ICR:</b> OMB approval of amendment to the 1990 ICR in order to include PPA requirements. In October 1992, this approval is extended by Congress, until EPA changes Form or Instructions.	112,000	4,887,680				
<b>1994 Program Change - Chemical Expansion:</b> This rule added several new chemicals to the list of chemicals subject to reporting under TRI. Doesn't change Form or Instructions, only the burden.	+14,036	+739,640				
<b>1995 Program Change - Alternate Threshold:</b> This rule established an alternate report for low reportable amounts and had its own ICR. The burden related to chemical expansion was already included in the baseline. Filers of Form As, decrease # of Form R filers.	-23,288	-1,210,976	+23,288	+803,436		
<b>1995 Program Change - Petition Delistings:</b> EPA granted several petitions to delist chemicals from the list of chemicals subject to reporting. Doesn't change Form or Instructions, only burden.	-9,305	-483,860	-2,241	-77,539		
<b>1996 Program Change - Petition Delistings:</b>	-3,081	-160,212	-533	-18,442		
<b>1996 Adjustment - Form A ICR Renewal:</b> Minor adjustment to burden.				+ 2,328		
<b>1997 Adjustment - Form R ICR Renewal:</b> Updated burden hours to reflect current estimates of burden estimated per form. OMB approval on 04/30/97 replaces Congressional approval.		+1,766,455				
<b>1997 Program Change - Industry Expansion:</b> This rule expanded the list of industries subject to reporting under TRI. An ICR (EPA #1784) for this rule was approved by OMB on 04/30/97.					+45,415	+2,704,085
<b>1997 Adjustment - ICR Amendments:</b> The burden hours for the industry expansion rule (with minor adjustment to burden) were incorporated into the Form R and Form A ICRs by OMB on 06/30/97.	+39,033	+2,467,463	+7,121	+281,517	-45,415	-2,704,085
<b>1998 Form A ICR. Program Change:</b> Reporting change to allow submission of multiple chemicals on a single Form A. <b>Adjustment:</b> Revise number of reports based on most recent TRI data.			-14,478	-82,264		
<b>1999 Adjustment - Form A ICR renewal</b>			- 4085	- 262,162		
<b>1999 Adjustment - Form R Correction Worksheet:</b> This adjustment revised the number of responses to be more consistent with actual reporting levels.	(13,226)	(665,666)				
<b>1999 Program Change - PBT Rule:</b> This rule lowers reporting thresholds for certain PBT chemicals, adds other PBT chemicals.	19,990	1,485,411				

CURRENT TOTALS ----->	<i>136,159</i>	<i>8,825,935</i>	<i>9,072</i>	<i>646,875</i>	<i>0</i>	<i>0</i>
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**ATTACHMENT E**

**TRI REPORTING PACKAGE FOR 1999 REPORTING CYCLE  
(EPA 745-B-00-001, FEBRUARY 2000).**

**INCLUDES INSTRUCTIONS FOR FORM A**